IN THE BOMBAY HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.3 OF 2003

1.Smt.Bilkish Ismail Mehsania
and Another. ...Petitioners

vs.

1. Shri.Abdulla Haji Gulam Rasool
and others. ...Respondents.

Mr.S.S.Shetty i/b. M/s.M.P.Vashi & Associates, for Petitioners.

Mr.Vora, for Respondents.

CORAM: D.K.DESHMUKH,J.

DATED: 7th March, 2005.

P.C.:-

1. This is a petition filed under Section 34 of the Arbitration & Conciliation Act,1996, challenging the

Award made by the Arbitral Tribunal. The admitted position is that no statement of claim in writing was filed, no reply in writing was filed and admittedly there is no averment in the petition or in the reply that the parties are agreed to follow the procedure which is different from the procedure that is laid down in the Arbitration and Conciliation Act,1996. Perusal of Section 23 and 24 of the Act shows that there has to be statement of claim in writing and the statement of defence has also to be in writing. The manner in which the proceedings are to be conducted by the Arbitral Tribunal, is also laid down under Section 24 of the Act. It is clear that the entire arbitration proceeding was contrary to the provisions of Arbitration and Conciliation Act,1996 and therefore, the Award which is impugned in the petition is vitiated and liable to be set aside. It is accordingly set aside. The Respondents are directed to pay the costs of the petition to the petitioners as incurred by the petitioners.

7.3.2005 ----